IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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ORDER

Mohan Lal
Vs.
State of Rajasthan & Ors.

S.B. CIVIL WRIT PETITION NO. 3386/2003 UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER :: 22nd December, 2006

PRESENT

HON'BLE JUSTICE SHRI MOHAMMAD RAFIQ

Mr.R.N. Upadhayay, Advocate, for the petitioner.
Mr. Rameshwar Dave, Dy. Government Advocate, for the respondents.

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BY THE COURT:

Heard learned counsel for the petitioner as well as learned Dy. Government Advocate.

Learned counsel for the petitioner has argued that in spite of the specific order passed by the Hon'ble Supreme

Court, the respondents have failed to regularize services of the petitioner. According to the petitioner, he was appointed as cook with the respondent no.3 in the month of July, 1993 on consolidated salary of Rs.350/-, which was later increased to Rs.600/-. He was required to prepare food for the inmates in the hostel. This Court in S.B. Civil Writ Petition No.3453/1994- Anshkalin Samaj Kalyan Sangh, Banswara Vs. State of Rajasthan & Ors decided on 26th May, 1995 directed the respondents to make payment of salary of the cook working with the various hostels run by Social Welfare Department. Benefit of this judgment was also directed to be extended to all those who were in service on the date of passing of the aforesaid order. The aforesaid writ petition was filed on 25.7.1994 and since the petitioner was appointed in July, 1993, the judgment is applicable to his case also. Appeal preferred by the State Government against the aforesaid judgment dated 26.5.1995 being D.B. Civil Special Appeal No.595/1995 was also dismissed. Hon'ble Supreme Court gave direction to the State Government for regularization of the services of the members of the petitioner association as per the scheme

submitted by the State before the Hon'ble Supreme Court. Learned counsel for the petitioner provided copy of the order passed by the Hon'ble Supreme Court in Special Leave to Appeal (Civil) No.21173/1994, decided on 29.3.1996. According to the said order, there will be 316 employees for consideration in the first phase who have completed five years of service. There will be 459 part time workers who have not completed five years. After determination of seniority according to length of service 152 employees who have completed two years but else than five years will be regularized in second phase, the rest 307 persons will be regularized in third phase. The process of preparation of seniority list will be completed by 30th April, 1996 and thereafter the process of regularization will start. The process of regularization in the first phase will be completed upto 15th August, 1993 and order shall be issued by 30.9.1996.

The respondents in their reply to the writ petition in para no.2 although did not dispute that the case of the petitioner would be covered at least in the group whose services were to

be regularized in third phase w.e.f. 1st April, 1998 but in para no.2 of the reply it has been stated that in view of the instructions issued by the Hon'ble Supreme Court the matter of the petitioner has been forwarded to the Screening committee of the Department, Directorate, Jaipur.

In view of the authoritative pronouncement of the Hon'ble Supreme Court it hardly needs to be stated that the judgment passed by the Hon'ble Supreme Court would be binding on all the concerned and therefore there can be no question of any further approval being procured from any authority even the Government.

In the result, the writ petition is allowed and the petitioner is held entitled to regularization w.e.f. 1st April, 1998 in terms of the aforesaid judgment of the Hon'ble Supreme Court. The respondents are directed to make compliance of this judgment within a period of three months from the date of service/receipt of this judgment and should make payment of all consequential benefits to the petitioner together with

interest @ 6% per annum.

There shall be no order as to costs.

(MOHAMMAD RAFIQ),J.

c.p.goyal/-